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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

BOB STUMP-Chairman
GARY PIERCE
BOB BURNS
SUSAN BITTER SMITH
BRENDA BURNS

IN THE MATTER OF THE APPLICATION OF
MONTEZUMA RIMROCK WATER COMPANY,
LLC FOR APPROVAL OF FINANCING TO
INSTALL A WATER LINE FROM THE WELL ON
TIEMAN TO WELL NO. 1 ON TOWERS

W-04254A-12-0204

IN THE MATTER OF THE APPLICATION OF
MONTEZUMA RIMROCK WATER COMPANY,
LLC FOR APPROVAL OF FINANCING TO
PURCHASE THE WELL NO. 4 SITE AND THE
COMPANY VEHICLE.

W-04254A-12-0205

IN THE MATTER OF THE APPLICATION OF
MONTEZUMA RIMROCK WATER COMPANY,
LLC FOR APPROVAL OF FINANCING FOR AN
8,000-GALLON HYDRO-PNEUMATIC TANK

W-04254A-12-0206

IN THE MATTER OF THE RATE
APPLICATION OF MONTEZUMA RIMROCK
WATER COMPANY, LLC.

W-04254A-12-0207

JOHN E. DOUGHERTY,
COMPLAINANT,
V.
MONTEZUMA RIMROCK WATER
COMPANY, LLC,
RESPONDENT.

W-04254A-11-0323

IN THE MATTER OF THE APPLICATION OF
MONTEZUMA RIMROCK WATER
COMPANY, LLC FOR APPROVAL OF A
RATE INCREASE.

W-04254A-08-0361

IN THE MATTER OF THE APPLICATION OF
MONTEZUMA RIMROCK WATER
COMPANY, LLC FOR APPROVAL OF A
FINANCING APPLICATION.

W-04254A-08-0362

**AMENDED FORMAL
COMPLAINT**

**MOTION TO ADD
ALLEGATION XVII**

1. On August 23, 2011, Complainant filed a Formal Complaint under ARS S40-246 and Arizona Corporation Commission Rules and Procedures R14-3-106 against Montezuma Rimrock Water Company LLC and Managing Member Ms. Patricia Olsen.
2. The Complaint included Allegations I-XIV.
3. On Sept.14, 2011, Allegation XV was added to Complaint by Procedural Order.
4. On Oct. 12, 2011 Allegation XVI was added to Complaint by Procedural Order.
5. On Sept. 30, 2011, Respondent filed its Answer to Allegations I through XVI.
6. The Respondent admitted to the following allegations:
7. **Allegation I-** In response to the first allegation of the complaint, Respondent admits that the note to Anna Barbara Brunner was not disclosed in the annual reports for 2006 through 2009.
8. **Allegation IV--** Respondent admits that Well #4 is included in the "Water Company Plant Description" and that it does not have a Certificate of Compliance to operate the well; Respondent denies the remaining allegations of paragraph IV.
9. **Allegation VII--** Respondent admits the allegations of paragraph VII.
10. **Allegation XI--**Respondent admits that an arsenic surcharge was improperly invoiced in 2009 for one month.
11. **Allegation XII--** Respondent admits that an arsenic surcharge was improperly

invoiced in 2011 for one month and that it was refunded to the Company's customers.

12. **Allegation XIII**-- Respondent admits that construction of much of the pipeline occurred in April of 2011 but denies that it intended to connect Well No. 4 to the proposed arsenic treatment facility.

13. **Allegation XV**-- Respondent admits that it failed to report to the Commission that some of its records had been stolen.

14. **Complainant incorporates by reference Allegations I, IV, VII, XI, XII, XIII and XV and all supporting documentation and exhibits and the Respondent's Admissions to each allegation to the Amended Complaint.**

Allegations withdrawn from Amended Complaint without Prejudice

15. Complainant hereby withdraws Allegations III, V, VI and XVI from the Formal Complaint without prejudice.

Allegations withdrawn from Amended Complaint with Prejudice

16. Complainant hereby withdraws Allegations VII, IX, XIII, XIV with prejudice.

Allegations in Amended Formal Complaint in addition to those Admitted to by Respondent

17. Complainant hereby incorporates the following allegations, and all supporting evidence and exhibits filed in Dockets W-04254A-11-0323, W-04254A-08-0361, W-04254A-08-0362, in the Amended Formal Complaint:

18. **Allegation I**—The Company did seek or obtain Commission approval to enter into a long-term, \$32,000 debt in 2005 to acquire property for Well No. 4 in violation of ARS S40-30 and ARS S40-302. As a result, the Company has willfully encumbered or spent Ratepayer funds to pay for the undisclosed loan from 2005 through 2011 in violation of ARS S40-423 and ARS S40-424.

19. **Allegation II**--The Company did not disclose material financial information to Commission staff during a 2009 audit -- a \$32,000 long term debt -- that was used to calculate a permanent rate increase and whether the company could qualify for a \$165,000 WIFA loan. The staff audit formed the basis for Decision No. 71317 Docketed on Oct. 30, 2009 in W-04254A-09-0361, 0362. The failure to disclose the debt to staff when the Company submitted its 2007 annual report is a violation ARS S40-301, ARS S40-302, R14-2-411 D (1,2) and Commission Order 67583.

20. **Allegation VIII**--The Company is in violation of Decision No. 71317 in Docket W-04254A-09-0361, 0362 since December 31, 2009 by failing to obtain an ADEQ Certificate of Approval for Well No. 4.

21. **Allegation X**--The Company provided incomplete and misleading statements to Commission investigators in January 2010 concerning its Yavapai County zoning issues related to Well No. 4. The Company's incomplete and misleading statements to ACC investigators is a violation of R 14-2-411.

Motion to Add Allegation XVII to Amended Complaint

22. On Jan. 14, 2013, Complainant, acting as intervener, filed Various Motions and supporting Exhibits 1-6 in W-04254A-12-0204 et. Seq.

23. On Jan. 15, 2013 Complaint, acting as intervener, filed additional Exhibit 7 in support of Motions filed on Jan. 14, 2013 in W-04254A-12-0204 et. Seq.

24. On Feb. 12, 2013, Complainant docketed a Motion in W-04254A-11-0323 to Add Allegation XVII to the Complaint and referenced Exhibits filed on Jan. 14, 2013 and Jan. 15, 2013 in -04254A-12-0204 et. Seq.

25. On Feb. 21, 2013, Complainant docketed Exhibits 8 and 9 and corrections in W-04254A-11-0323 to the Motion to Add Allegation XVII to the Complaint.

26. On Feb. 25, 2013 Complainant docketed Exhibit 10 in Docket W-04254A-11-0323 in support of Allegation XVII.

27. Complainant respectfully moves the Commission to include in the Amended Formal Complaint the following five claims (A-E) as Allegation XVII:

A. Montezuma knowingly and willfully violated the January 4, 2012, March 12, 2012 and April 9, 2012 Procedural Orders in Docket W-4254A-08-361, W-4254A-08-362 by failing to docket a March 22, 2012 Capital Lease agreement between Montezuma and Nile River Leasing, LLC for an Arsenic Treatment Building. Instead, the Company docketed a purported March 16, 2012 lease agreement between Mrs. Patricia Olsen, personally, and Nile River Leasing for the building. This action was undertaken to circumvent Commission approval of Capital Leases in violation of ARS S40-301, ARS S40-302, ARS S40-424 and ARS S40-425.

B. Montezuma knowingly and willfully violated the January 4, 2012, March 12, 2012 and April 9, 2012 Procedural Orders in Docket W-4254A-08-361, W-4254A-08-362 by failing to docket a Capital Lease agreement with Financial Pacific Leasing, LLC for an Arsenic Treatment Facility signed on or about April 3, 2012. Instead, the Company docketed a purported March 16, 2012 lease agreement between Mrs. Patricia Olsen, personally, and Nile River Leasing, for the Arsenic treatment equipment. This action was taken to circumvent Commission approval of Capital Leases in violation of ARS S40-301, ARS S40-302, ARS S40-424 and ARS S40-425.

C. Ms. Patricia Olsen knowingly and willfully docketed a fraudulent lease agreement

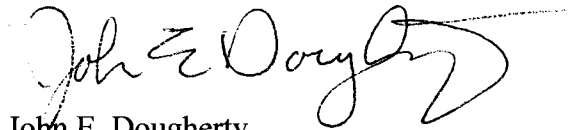
between Montezuma and Financial Pacific Leasing for an Arsenic Treatment Facility dated on or about May 2, 2012 in an October 25, 2012 filing docketed in W-04254A-12-0204 et seq. when, in fact, the Company had entered into an effective lease agreement with Financial Pacific Leasing on or about April 3, 2012. This action was taken to circumvent Commission approval of Capital leases in violation of ARS S40-301, ARS S40-302, ARS S40-424 and ARS S40-425.

D. The Company has willfully spent or encumbered Ratepayer funds in connection with the execution of the unauthorized Capital Leases for the Arsenic Treatment building and Arsenic treatment equipment entered into by the Company in violation of ARS S40-423, ARS S40-424 and ARS S40-425.

E. Contrary to Montezuma Counsel's April 27, 2012 Legal Brief, the Company, rather than Ms. Olsen, entered into a purchase agreement with Kevlor Design Group, LLC for the Arsenic Treatment Equipment in violation of ARS S40-301, ARS S40-302, ARS S40-424 and ARS S40-425.

28. Complaint incorporates all relevant exhibits docketed in W-04254A-11-0323 and W-04254A-12-0204 et. Seq. in support of Allegation XVII.

Dated this 27st Day of February, 2013



John E. Dougherty
Complainant

Copies of the foregoing Mailed/Hand Delivered
This 27th day of February, 2013 to:

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